

**STATE AGRICULTURE DEVELOPMENT COMMITTEE**

**POLICY**

**SITE SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE DETERMINATION  
AND CONFLICT RESOLUTION PUBLIC HEARING  
GUIDELINES FOR CADBs**

**I. PURPOSE**

The following guidelines are recommended procedures for County Agriculture Development Board (CADB) public hearings to determine Site Specific Agricultural Management Practice (SSAMP) requests or to resolve disputes between commercial farm operators and persons who are aggrieved by farm operations pursuant to N.J.S.A. 4:1C-9 and 10.1. The procedures for such hearings are more specifically set forth in N.J.A.C. 2:76-3, 7 and 8. However, this policy provides further guidance for CADBs holding these hearings.

**II. AUTHORITY**

N.J.S.A. 4:1C-9, 10.1 and 10.2  
N.J.A.C. 2:76-2.3, 2.7 and 2.8

**III. SUPERCEDES**

Policy P-2 – Conflict Resolution Public Hearing Guidelines for CADBs (eff. July 27, 2000).

**IV. POLICY**

1. All deliberations and testimony shall be heard in open session, except that matters which fall under one of the provisions enumerated at N.J.S.A. 10:4-12b.(7) may be discussed in closed session. After the public hearing of a particular right to farm issue, the CADB may provide for a limited period of time in which subsequent written submissions may be given to the CADB for consideration, and for incorporation into the hearing record. It is also recommended that the CADB deliberate and issue its findings and recommendations at an open public meeting held after the one in which the public hearing is conducted. In the interim, CADB

staff can prepare recommendations based upon the testimony and the written record and provide the CADB with its recommendations at the subsequent meeting.

2. Generally, it is the parties' option whether to be represented by legal counsel. In most cases, there is no requirement to be represented by legal counsel, unless the applicant is a corporation or a limited liability company (LLC). Legal representation is not required for a close corporation or an LLC under the following conditions:

- a. For close corporations: The only non-attorney permitted to represent a closely held corporation is a principal of the corporation. A closely held, or close corporation, is owned by a small number of individuals, who can run the corporation's business. The defining characteristics of a closely held corporation are typically: (1) a small number of stockholders; (2) no ready market for the corporate stock; and (3) substantial majority stockholder participation in the management, direction and operations of the corporation.

A principal may represent the close corporation if the principal either: (1) owns a majority interest in the close corporation; and/or (2) is an officer or executive employee who is actively involved in managing the business of such corporation.

Findings under Section IV2a must be based on documentation, such as a certificate of incorporation, corporate bylaws and/or corporate resolution.

- b. For LLCs: The only non-attorney permitted to represent an LLC is a manager or member of the LLC so long as the LLC is owned by a small number of individuals who can run the LLC's business. The LLC would be required to meet the following criteria: (1) there is a small number of members; (2) there is no ready market for the membership interests; and (3) a substantial majority of the members participate in the management, direction and operations of the LLC.

A manager or member may represent the LLC if the manager or member either: (1) owns a majority membership interest in the LLC; and/or (2) is actively involved in the management, direction and operations of the LLC.

Findings under Section VI2b must be based on documentation, such as a certificate of incumbency, an operating agreement and/or LLC resolution.

3. The chairperson or counsel to the CADB should act as the hearing officer.
  - a. All parties should be given the right of cross-examination, either directly,

if not represented by an attorney, or through their attorney if represented.  
All testimony should be subject to the discretion of the hearing officer and subject to reasonable limitations as to time and number of witnesses.

- b. The chairperson of the CADB or counsel to the CADB may administer oaths and affirmations. (N.J.S.A. 2A:67A-2)
  - c. Verbal testimony may be given in narrative form or by question and answer. All relevant evidence should be heard and admitted.
4. The findings and recommendations should include the following:
- a. Caption (names of complainant and commercial farm operator if complaint; name of commercial farm operator if SSAMP request)
  - b. Appearances of parties and their representatives, if any
  - c. Statement of Issue(s)
  - d. Factual Discussion, including summaries of testimony and documents
  - e. Fact Findings
  - f. Recommendations/Conclusions